

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1963 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed
to see the judgements?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair
copy of the judgement.

4. Whether this case involves a substantial
question of law as to the interpretation of
the Constitution of India, 1950 of any Order made
thereunder?

5. Whether it is to be circulated to the Civil Judge?

DIGVIJAY CEMENT CO LTD

Versus

GEB

&

ORS.

MR. K.S. NANAVATI, Sr. Counsel for Petitioner.

MR TUSHAR MEHTA, Advocate, for Respondents.

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 16/04/96

Rule. Mr. Trushar Mehta, learned Advocate,
waives service of notice of rule for respondent Gujarat
Electricity Board.

2. The challenge in the present Special Civil
Application is the supplementary bill of
Rs.13,36,78,584-50 ps. which is of alleged theft of
electricity. It is contended by the learned Counsel for
petitioner that allegation of electricity theft is

baseless and the supplementary and technical report submitted by the respondent Board suffers from fundamental illegality and inaccuracy. On the other hand

Mr. Trushar Mehta, learned Advocate for the respondent Board submits that surprise checking was carried by the team of Sr. level Officers of the Board in presence of many responsible officers of the petitioner Company. From the surprise checking theft of electricity to the huge extent was detected. He further contends that present writ petition deserves to be rejected on the preliminary objection that the petitioner has not availed remedy of appeal.

3. As held by several decisions of this Court, that a petition under Article 226 of the Constitution of India is not an appropriate remedy to determine the disputed question of facts involving technical consideration. In view of the alternative remedy provided under the Conditions for approaching the Appellate Committee of the Respondent Board for ventilating the grievances, the petitioner is required to be relegated to the said remedy. Keeping in view the peculiar facts of the case and more particularly the huge amount of bill running in crores , ends of justice would meet if the petitioner is directed to deposit 20% amount of the bill at annexure 'B'. Thus, the following order is made:-

O R D E R.

1. The petitioner is relegated to the remedy
of approaching the Appellate Committee of
the Respondent G.E.Board for ventilating

the grievances. The petitioner shall
present its representation or appeal
within a period of one month.
2. The petitioner shall deposit 20% of the
amount of bill annexure 'B' within a
period of two months.
3. The appeal shall be heard only after the
aforesaid amount is deposited and appeal
shall be decided within a period of two
months from the date of deposit.

4. If the petitioner does not deposit the
aforesaid amount within the stipulated
period, it will be open for the
respondent G.E. Board, to disconnect the
connection.

Rule is made absolute to the aforesaid extent.
There shall be no order as to costs.

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